

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Frank Montgoris	Team: Squad #7	CCRB Case #: 201707955	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 09/04/2017 10:15 PM	Location of Incident: Bedford Avenue between Willoughby Avenue and Myrtle Avenue	Precinct: 79	18 Mo. SOL 3/4/2019	EO SOL 3/4/2019	
Date/Time CV Reported Tue, 09/26/2017 7:02 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 09/26/2017 7:02 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Bomparola	15054	955761	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Mohamed Elhanafi	15082	955897	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Anthony Bomparola	Abuse: Police Officer Anthony Bomparola frisked § 87(2)(b) [REDACTED]	
B.POM Anthony Bomparola	Abuse: Police Officer Anthony Bomparola searched the vehicle in which § 87(2)(b) [REDACTED] was an occupant.	
C.POM Anthony Bomparola	Abuse: Police Officer Anthony Bomparola refused to provide his name to § 87(2)(b) [REDACTED]	

Case Summary

§ 87(2)(b) filed this complaint with the CCRB via the on-line website on September 26, 2017.

On September 4, 2017, PO Anthony Bomparola and PO Mohamed Elhanafi, from the 79th Precinct, pulled over § 87(2)(b)'s vehicle on Bedford Avenue, between Myrtle Avenue and Willoughby Avenue, in Brooklyn, for excessive tints and a license plate cover. During the vehicle stop, PO Bomparola frisked § 87(2)(b) (**Allegation A: Abuse of Authority**, § 87(2)(g)). PO Bomparola then searched § 87(2)(b)'s vehicle (**Allegation B: Abuse of Authority**, § 87(2)(g)). When issuing § 87(2)(b) his summons, PO Bomparola refused to provide his name to § 87(2)(b) (**Allegation C: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) was issued a summons for his license plate cover. § 87(2)(b) recorded a portion of this incident with his cell phone. The relevant portions of the video were edited via Snag-It (Board Review 01).

Findings and Recommendations

Allegation A – Abuse of Authority: Police Officer Anthony Bomparola frisked § 87(2)(b)

Allegation B – Abuse of Authority: Police Officer Anthony Bomparola searched the vehicle in which § 87(2)(b) was an occupant.

Although § 87(2)(b) alleged that PO Elhanafi searched his vehicle, both officers acknowledged PO Bomparola was the officer who searched § 87(2)(b)'s vehicle. Therefore, Allegation B has been pled against PO Bomparola.

It is undisputed that PO Bomparola frisked § 87(2)(b) and that § 87(2)(b)'s vehicle was searched.

§ 87(2)(b) alleged that, upon being pulled over and asked where he was coming from, PO Bomparola asked him if he had been smoking marijuana. § 87(2)(b) denied it, and PO Bomparola asked him twice to step out of the vehicle. § 87(2)(b) stepped out of the vehicle, and PO Bomparola patted him down from his shoulders to his legs, patting the pockets on the side and back of § 87(2)(b)'s shorts as well. § 87(2)(b) was then taken to the back of the vehicle by PO Bomparola, and observed PO Elhanafi inside of his vehicle in the front passenger's seat. PO Elhanafi looked in the glove compartment, near the cup holders, and in the backseat. PO Elhanafi then opened § 87(2)(b)'s trunk and searched the trunk. PO Bomparola informed § 87(2)(b) that there was "weed residue" on his vehicle, but § 87(2)(b) was never told what that meant. § 87(2)(b) did not make any mention of reaching into his pockets or inside areas of the vehicle prior to stepping out, or being asked by PO Bomparola to stop doing so. § 87(2)(b) denied smoking marijuana prior to this incident, and denied that his vehicle smelled like marijuana during the incident (Board Review 02).

PO Bomparola testified that, upon getting to § 87(2)(b)'s driver's side window, he smelled a "general marijuana smell" coming from § 87(2)(b)'s vehicle, which he knew to be marijuana from his training and multiple prior related arrests. § 87(2)(b) handed PO Bomparola his license and registration, and then began reaching into both of his pants pockets, as well as into the center console and glove compartment. PO Bomparola told § 87(2)(b) several times to stop, but § 87(2)(b) was "combative" and "aggressive" by yelling over him; however, PO Bomparola did not recall what § 87(2)(b) was saying, and § 87(2)(b) did not make any statements to PO Bomparola that he was providing him with any additional documentation. PO Bomparola asked § 87(2)(b) multiple times to exit the vehicle for his

failure to comply with his commands to stop reaching, and believed § 87(2)(b) was concealing a weapon because of his consistent reaching. PO Bomparola patted § 87(2)(b)'s waistband, pockets, and ankles for a weapon. PO Bomparola believed he searched "the entire interior" of the vehicle, which included the glove compartment, underneath the seats, and the center console. During his search of the vehicle, PO Bomparola observed small marijuana residue, which he described as a small, "green, leafy substance," further describing it as "ash-like" when asked to specify, which was scattered in tiny fragments across the floor of the driver's seat, as well as the cup holder. PO Bomparola also searched the trunk of the vehicle, which he noted he searched because of the presence of the residue inside of the vehicle. PO Bomparola did not recall PO Elhanafi searching the vehicle (Board Review 03).

PO Elhanafi testified that, as officers initially approached § 87(2)(b)'s vehicle, he observed § 87(2)(b) "fidgeting" inside of the vehicle by twisting his upper body and reaching into his pockets. PO Elhanafi initially denied that § 87(2)(b) was reaching into any area of the vehicle, but when referred to his memo book entry refuting this, PO Elhanafi stated that § 87(2)(b) was reaching towards the "reachable, grabbable" areas near the center console. PO Elhanafi initially noted that § 87(2)(b)'s movements stopped once he provided his license and registration, but later testified that § 87(2)(b) stopped moving around once PO Bomparola began speaking with him. Once the officers approached the vehicle, § 87(2)(b) rolled down his driver's and front passenger's windows, at which point PO Elhanafi began to smell marijuana emanating from the vehicle, noting that it smelled as if marijuana had been smoked "minutes ago." PO Elhanafi also observed marijuana residue on the front passenger's seat and the floor in front of the front passenger's seat, which he described as a "green, leafy substance." When asked to further describe the residue, PO Elhanafi noted that it was in the form of pea-sized pebbles. PO Elhanafi denied personally searching § 87(2)(b)'s vehicle, but acknowledged PO Bomparola searching both the interior and trunk of the vehicle because of probable cause established by both the marijuana smell and § 87(2)(b)'s fidgeting inside of the vehicle (Board Review 04).

Both PO Bomparola's and PO Elhanafi's memo book entries from this incident, which are identical to each other, note that § 87(2)(b) was not compliant when asked to exit the vehicle multiple times, and was reaching into his pockets and around the vehicle when told not to. The entries acknowledge that § 87(2)(b) was frisked and that his vehicle was searched, with the search yielding marijuana residue but no narcotics (Board Reviews 05 and 06).

The Stop Report, which was generated by PO Bomparola for this incident, indicates that § 87(2)(b) was frisked for refusing orders by an officer and reaching into pockets and around the vehicle when told not to, putting the officer in fear of him concealing a weapon. The report makes no mention of the vehicle search (Board Review 07).

The smell of marijuana smoke, with nothing more, can be sufficient to provide officers with probable cause to search a vehicle and its occupants. People v. Chestnut, 43 A.D.2d 260 (1974) (Board Review 08).

§ 87(2)(b), § 87(2)(g)

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§ 87(2)(b), § 87(2)(g)

his name to § 87(2)(b)

It is undisputed that § 87(2)(b) asked PO Bomparola for his name during the incident. § 87(2)(b) who identified PO Bomparola as “PO Bombarela” during his in-person statement, which he stated he obtained from looking at his shield during the incident, alleged that PO Bomparola came back to his vehicle and handed him his summons. While PO Bomparola was walking back to the police vehicle, § 87(2)(b) stuck his head out the window and asked, “Officer, can I have your name and badge number?” PO Bomparola responded, “It’s on the ticket.” He then closed the door of the police vehicle, not giving § 87(2)(b) a chance to respond. § 87(2)(b) alleged that the handwriting of the summons was not legible, and he was unable to decipher whose name was on it (Board Review 02).

PO Bomparola, who acknowledged writing the summons, testified that § 87(2)(b) asked for his name at some point during the incident, but did not recall when. He noted that, upon being asked for his name, he verbally provided it to § 87(2)(b) showed § 87(2)(b) his

badge, and informed him that it would be on his summons. Upon being shown the cell phone video of this incident, which recorded only audio of § 87(2)(b)'s request for his name, PO Bomparola clarified that, along with asking for his name when being issued the summons, he had also requested his name at an additional time during the incident, in which PO Bomparola verbally provided it and showed him his name plate. However, PO Bomparola did not recall when this interaction took place (Board Review 03).

PO Elhanafi testified that § 87(2)(b) asked PO Bomparola for his name and shield number upon being issued the summons. PO Bomparola had verbally provided his information and told him that it was on the summons. PO Elhanafi did not know if PO Bomparola ever physically displayed his badge for § 87(2)(b). After being shown the audio evidence of the interaction, PO Elhanafi confirmed that it was PO Bomparola's voice in the audio that told § 87(2)(b) that it was on the summons. However, when referred to the apparent fact that PO Bomparola was not heard providing his name, PO Elhanafi did not remember any other point in the incident when PO Bomparola had done so (Board Review 04).

The Snag-It edit of § 87(2)(b)'s cell phone video, which is 45 seconds long, depicts § 87(2)(b) asking, "What's your name officer?" A faint male voice is heard responding, "It's on the ticket." A different male voice is then heard stating, "It's on the summons." § 87(2)(b) is then heard responding, "Can you say your name please, officer? In front of these people here? Can you give me your name?" PO Bomparola is never heard verbally providing his name in the video (Board Review 01).



201707955_20180102_1343_DM.mp4

Summons #§ 87(2)(b) which was issued to § 87(2)(b) for his license plate cover, displays two different signatures underneath the "Complainant Sign and Print Name/Rank" section of the ticket. While the letters "PO" are visible, the rest of the signatures are not legible. PO Bomparola's name is not legibly seen anywhere on the summons (Board Review 09).

Police officers must clearly state, or otherwise provide, their name to anyone who requests them to do so. NYPD Patrol Guide, Section 203-09 (Board Review 10).

Although § 87(2)(b) alleged in his in-person statement that he asked PO Bomparola for his name and shield number, the cell phone video shows that § 87(2)(b) asked him solely for his name.

§ 87(2)(b), § 87(2)(g)
[REDACTED]

§ 87(2)(b), § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This case was eligible for mediation, but § 87(2)(b) declined to mediate.
- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)
- A Notice of Claim request was submitted with the New York City Comptroller's Office on December 29, 2017. That request is still pending, as of the writing of this report (Board Review 12).

Civilian and Subject Officer CCRB Histories

- § 87(2)(b)
- PO Bomparola has been a member of the NYPD for three years. PO Bomparola has been the subject of five prior allegations stemming from Case #201704022, including vehicle stop, vehicle search, and frisk allegations, all of which were substantiated against him. The CCRB has recommended Command Discipline "A" as discipline, but the NYPD has yet to reach a disposition, as of the writing of this report.

Squad No.: 7

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date